

### **REMARKS**

Claims 1-23, 25-33, 35-45, and 48-52 are now pending in the application. Claims 1, 7, 33, 38, and 42 are amended herein. Support for the amendments to claims 1 and 7 can be found at least in Figure 1C of the present application. Support for the amendment to claim 33 can be found at least in Figure 1 of the present application. Claim 38 is amended herein to be in independent form. Support for the amendment to claim 42 can be found at least in paragraph [0032] of the specification of the present application. New claims 48-52 are added herein. Support for new claims 48-49 and 51 can be found at least in Figure 1 of the present application. Support for new claims 50 and 52 can be found at least in Figure 2C of the present application. No new matter is added. The Examiner is respectfully thanked for the Telephonic Interview of June 1, 2006. No exhibits were given nor any demonstrations conducted. The disclosure of the Willard reference relative to the pending claims was discussed. Applicant agreed to submit written arguments in support of patentability of these claims. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 102**

Claims 1-3, 6-10, 12, 14, 15, 28-31, 33, 35-37, and 39-41 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Willard (U.S. Pat. No. 6,508,502). This rejection is respectfully traversed.

Claim 1 calls for "said structural member extends across the vehicle in a cross-vehicle direction below a belt line of the vehicle." In contrast, the Willard reference discloses that tonneau cover 14 may include a rigid rollover protection member (roll bar)

that would span between opposing tonneau cover locking mechanisms 18. The Willard reference, however, does not specify whether such a roll bar protection mechanism would reside below a belt line of the vehicle. Furthermore, it is respectfully submitted that a rollover protection member would not extend below the belt line as the member would be inadequate to provide protection in the event of a rollover. In other words, a rollover protection member needs to extend upwardly beyond the belt line (and possibly above the head of an occupant of the vehicle) to provide protection in the event of a rollover to reduce the possibility of an occupant of the vehicle being injured in the event of a rollover condition. Thus, if the rollover protection member were to extend below the belt line of the vehicle, such protection would not be afforded by the rollover protection member, thereby ceasing to function as intended. For at least this reason it is respectfully submitted that claim 1 is patentable over the prior art of record. Claims 2, 3, and 6 all depend from claim 1 and, therefore, for at least the same reason stated above with reference to claim 1 are also patentable over the prior art of record. Thus, withdrawal of the instant rejection is requested.

Claim 7 calls for "a majority of a cross-vehicle extending portion of said structural member, when coupled, being above a fore-and-aft middle section of said retractable roof when in said stowed position." In contrast, the Willard reference discloses that a rigid rollover protection member can span between opposing tonneau cover locking mechanisms 18. As shown in Figure 5 of the Willard reference, such an extension would result in the rollover protection member being in front of the convertible roof when in the retracted position. Being in front of the convertible roof when in the retracted position is not the same as extending over a fore-and-aft middle section of the

convertible roof when in the retracted position. Thus, for at least this reason claim 7 is patentable over the prior art of record. Claims 8-10, 12, and 14-15 all depend from claim 7 and, therefore, for at least the same reason stated above with reference to claim 7 are also patentable over the prior art of record. Thus, withdrawal of the instant rejection is requested.

Claim 28 calls for “attaching a moveable structural member operable to engage with said retaining mechanisms to provide structural support and torsional rigidity to the storage area.” (emphasis added) Thus, in claim 28 the structural member while providing structural support also increases the torsional rigidity to the storage area. It is respectfully submitted that the prior art does not disclose such a structural member. Rather, the Willard reference merely discloses that a rigid rollover protection member can span between opposing tonneau cover locking mechanisms 18. It would appear that the intent of the rollover protection member is to reduce the possibility of an occupant being vertically crushed in the event of a rollover of the vehicle. As such, the rollover protection member would provide a resistance to vertical compression of the rollover protection member relative to the vehicle body. Such protection, however, does not require nor imply an increase to the torsional rigidity of the storage area. Rather, with the rollover protection member being directed toward a vertical compression or crushing the vehicle, such torsional rigidity enhancement of the storage area is not even contemplated by the Willard reference and any possible increase in the torsional rigidity would be minimal/de minimis at best. Thus, it is respectfully submitted that the Willard reference does not provide torsional rigidity to the storage area through the use of a moveable structural member that can be selectively attached to retaining mechanisms.

For at least this reason claim 28 is patentable over the prior art of record. Claims 29-31 all depend from claim 28 and, therefore, for at least the same reason stated above are also patentable over the prior art of record. Thus, withdrawal of the instant rejection is requested.

Claim 33 calls for "said structural member being coupled to a moveable frame supporting a panel operable to cover at least a portion of the storage area." In contrast, the prior art of record does not appear to disclose a structural member being coupled to a frame that supports a panel. As such, it is respectfully submitted that the subject matter of claim 33 is patentable over the prior art of record. Claims 35-37 and 39-41 all depend from claim 33 and, therefore, for at least the same reason stated above are also patentable over the prior art of record. Accordingly, withdrawal of the instant rejection is requested.

#### **REJECTION UNDER 35 U.S.C. § 103**

Claims 4, 13, and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Willard (U.S. Pat. No. 6,508,502) in view of Antreich (U.S. Pat. Pub. No. 2003/0042751). This rejection is respectfully traversed. Notwithstanding, claims 4, 13, and 32 all depend from one of claims 1, 7, and 28 and, therefore, for at least the same reasons stated above with reference to claims 1, 7, and 28 are also patentable over the prior art of record. Thus, withdrawal of the instant rejection is requested.

Claims 42 and 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Willard (U.S. Pat. No. 6,508,502) in view of Gotz et al. (U.S. Pat. No. 5,211,718). This rejection is respectfully traversed.

Claim 42 calls for “said structural support member . . . provide structural support to and increase a torsional rigidity of a vehicle body.” In contrast, as stated above with reference to claim 28, the Willard reference does not teach, disclose, nor even contemplate a structural member increasing a torsional rigidity of a vehicle body. Furthermore, it is respectfully submitted that the Gotz et al. reference also does not disclose, teach, nor suggest the use of a roll bar 8 to increase a torsional rigidity of the vehicle body as called for. Thus, for at least these reasons it is respectfully submitted that claim 42 defines patentable subject matter and withdrawal of the instant rejection is requested. Claim 44 depends from claim 42 and, therefore, for at least the same reason stated above with reference to claim 42 is also patentable over the prior art of record. Thus, withdrawal of the instant rejection is requested.

#### **NEW CLAIMS**

New claims 48-52 are added herein. It is respectfully submitted that new claims 48-52 define further patentable subject matter and, thus, are allowable over the prior art of record. For example, claim 48 calls for “wherein said retractable roof is below the belt line of the vehicle when in said stowed position.” In contrast, the Willard reference clearly shows the roof panel extending above the belt line of the vehicle when in the stowed position. Moreover, claims 49 and 51 include subject matter relating to moving the structural member along with a frame and a panel which is not disclosed in the prior art of record. Furthermore, claims 50 and 52 both include subject matter relating to a panel that can be moved to a third position, thus forming a dual-acting panel in conjunction with the structural member called for. It is respectfully submitted that such

subject matter is not disclosed in the prior art of record. Thus, allowance of new claims 48-52 is requested.

**ALLOWABLE SUBJECT MATTER**

The Examiner states that claims 5, 11, 16-23, 25-27, 38, 43, and 45 would be allowable if rewritten in independent form. Claims 16 and 45 are already in independent form. Thus, it is respectfully submitted that claims 16 and 45 are allowable along with the claims that depend therefrom. Claim 38 is amended herein to be in independent form. Thus, allowance of claim 38 is requested. The Examiner is respectfully thanked for the objection to these claims.

**CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By:   
Jeffrey H. Urian, Reg. No. 46,232

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600  
JHU/ps